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Attorneys for Defendant COUNTY OF SISKIYOU

(Exempt from Filing Fees Pursuant to Government Code § 6103)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

XAO THAO,

Case No. 2:23-cv-02563-DJC-CKD

Plaintiffs,

**DEFENDANT COUNTY OF SISKIYOU'S
NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGEMENT**

v.

COUNTY OF SISKIYOU, and DOES 1,
THROUGH 50,

Date: September 18, 2025

Time: 1:30 P.M.

Courtroom: 7, 14th Floor

Defendants.

Complaint Filed: 11/06/2023

TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on the above date and time, Defendant COUNTY OF SISKIYOU will, and hereby does, move for an order granting summary judgment/adjudication pursuant to Federal Rule of Civil Procedure 56 on the following grounds:

1. Plaintiff does not allege cognizable Monell claims;
2. Assuming arguendo the court finds sufficiently alleged claims, Defendant submits that the Policies of the Siskiyou County Sheriff's Office Were Constitutional and Not the Moving Force Behind the Alleged Constitutional Violations;

1 3. Plaintiff cannot prove an underlying violation of the Equal Protection Clause³

2 4. Plaintiff cannot prove an underlying violation of the Fourth Amendment arising from the
3 entry onto the real property;

4 5. Damage to the real property is not actionable for lack of standing

5 6. Plaintiff cannot prove a Claim for Unlawful Detention under the Fourth Amendment;

6 7. Plaintiff cannot prove an underlying violation of the Fourth Amendment for excessive
7 force;

8 8. The County is immune for all state law claims under California Government Code
9 section 815.

10 This Motion is based on this Notice of Motion, the Separate Statement of Undisputed Material
11 Facts, Joint Statement of Undisputed Facts, the Memorandum of Points and Authorities, Declarations
12 and Exhibits thereto, the pleadings and records on file in this matter, and on any evidence, including oral
13 and documentary evidence, that may be presented at any later point including the hearing on the motion.

14 Pursuant to the court's Standing Order, the undersigned certifies that the parties met and
15 conferred prior to the filing of this motion. On April 22, 2025, counsel for Defendants sent
16 correspondence to counsel for Plaintiffs which analyzed each claim for relief and addressed the merits of
17 this present motion. Counsel for Defendant invited counsel for Plaintiffs to inform them if they would be
18 willing to dismiss any claim to avoid the time and money required to file this instant motion. On May 1,
19 2025, counsel for Plaintiffs responded in writing. Thereafter, counsel for the parties had a telephonic
20 discussion but no resolution could be reached. Counsel for Defendants also sent counsel for Plaintiff
21 their proposed Separate Statement of Undisputed Material Facts and invited counsel for Plaintiffs to call
22 to discuss any facts not in dispute to narrow the issues before this Court. Thereafter discussions were
23 conducted resulting in some facts agreed upon, resulting in the Joint Statement of Undisputed facts
24 submitted herewith. Accordingly, Defendants have satisfied the meet and confer requirement.

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1 Dated: July 25, 2025

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3 By /s/ John R. Whitefleet

John R. Whitefleet

Zachary J. Ayre

Attorneys for Defendant